

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
TERRY CRABTREE, JUDGE

DIVISION I

CA 06-604

December 20, 2006

BILLIE ANN BOYD

APPELLANT

APPEAL FROM THE CIRCUIT COURT  
OF DREW COUNTY, ARKANSAS  
[NO. JV 2002-43]

V.

ARKANSAS DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

HONORABLE TERESA FRENCH,  
CIRCUIT JUDGE

AFFIRMED

APPELLEE

Appellant Billie Ann Boyd appeals from an order entered March 6, 2006, that terminated her parental rights to her children, A.B. (d/o/b 02-05-99) and C.R. (d/o/b 05-03-00). The order also terminated the parental rights of the children's putative fathers, but they are not parties to this appeal. For reversal, Ms. Boyd argues that the trial court erred in finding that there was clear and convincing evidence to support a termination of her rights. We affirm.

When the issue is one involving the termination of parental rights, there is a heavy burden placed upon the party seeking to terminate the relationship. *Johnson v. Arkansas Dep't of Human Servs.*, 78 Ark. App. 112, 82 S.W.3d 183 (2002). Termination of parental rights is an extreme remedy and in derogation of the natural rights of the parents. *Wade v.*

*Arkansas Dep't of Human Servs.*, 337 Ark. 353, 990 S.W.2d 509 (1999). Parental rights, however, will not be enforced to the detriment or destruction of the health and well-being of the child. *Id.* The facts warranting termination of parental rights must be proven by clear and convincing evidence, and in reviewing the trial court's evaluation of the evidence, we will not reverse unless the court's finding of clear and convincing evidence is clearly erroneous. *Baker v. Arkansas Dep't of Human Servs.*, 340 Ark. 42, 8 S.W.3d 499 (2000). Clear and convincing evidence is that degree of proof which will produce in the fact finder a firm conviction regarding the allegation sought to be established. *Id.* In resolving the clearly erroneous question, we must give due regard to the trial court to judge the credibility of witnesses. *Id.* Additionally, we have noted that in matters involving the welfare of young children, we will give great weight to the trial judge's personal observations. *Ullom v. Arkansas Dep't of Human Servs.*, 340 Ark. 615, 12 S.W.3d 204 (2000).

On June 4, 2002, appellee Arkansas Department of Human Services (DHS) took an emergency hold on the children to protect their health and safety, because appellant was incarcerated and there had been a child maltreatment report filed with the Child Abuse Hotline. The trial court entered an order of emergency custody on June 11, 2002. The children were adjudicated dependent neglected by order entered August 6, 2002. Although the children were returned to appellant on January 22, 2003, another petition for emergency custody was filed April 17, 2003, due to unexplained injuries to the children and appellant's noncompliance with the DHS case plan. More specifically, the home in which they were living was environmentally unsafe, and appellant was unemployed.

An order for emergency custody was entered April 17, 2003, and the children were again adjudicated dependent neglected by order entered May 23, 2003. In the adjudication order, appellant was ordered to obtain and maintain steady employment at the same job, to maintain a stable home, to obtain transportation, and to obey the DHS case plan. In each subsequent order, the court found that appellant had failed to comply with the case plan. DHS filed a petition to terminate parental rights on August 22, 2005, and after the termination hearing held on October 12, 2006 and continued on January 10, 2006, the court terminated appellant's parental rights. The trial court found that DHS proved by clear and convincing evidence that it had an appropriate permanency plan for the children, namely adoption, and that it was in the best interest of the children that appellant's parental rights be terminated. The trial court also found that the children had been out of appellant's home for more than one year, and in fact, had been out of her home for forty of the past forty-three months and had never lived with either putative father. The court found that despite meaningful efforts by DHS to rehabilitate the home and correct the conditions that caused removal, those conditions had not been remedied by appellant, and more specifically that appellant failed to maintain stable housing and employment, that appellant failed to provide significant material support and was admittedly in arrears on court-ordered child support in excess of \$3,000, and that appellant was nowhere closer to meeting the case plan criteria on the date of the termination hearing than she was when the children were taken into emergency custody.

Pursuant to Ark. Code Ann. § 9-27-341 (Supp. 2005), parental rights can be terminated

when DHS is attempting to clear a juvenile for permanent placement and evidence is presented that termination is in the juvenile's best interest and one or more statutory ground for termination is present. Arkansas Code Annotated § 9-27-341(b)(3)(B)(i)(a) designates one ground for termination as follows:

That a juvenile has been adjudicated by the court to be dependent-neglected and has continued out of the custody of the parent for twelve (12) months and, despite a meaningful effort by the department to rehabilitate the parent and correct the conditions that caused removal, those conditions have not been remedied by the parent.

The court found that the children in this case were previously adjudicated dependent-neglected, and they continued out of the custody of appellant for forty of the previous forty-three months. Further, the court found that throughout the duration of the case, DHS made reasonable efforts to reunite the family. Appellant does not challenge either of these findings on appeal, rather she contends the court's finding that she did not comply with the case plan is clearly erroneous.

The case plan and court orders in this case ordered appellant to, among other things, obtain and maintain steady employment at the same job, to maintain a stable home, and to obtain transportation. At the termination hearing there was testimony from Jennifer Harper, a family service worker who had been involved with this case since May 2004. Ms. Harper testified that appellant had not maintained steady employment, that she had moved at least four times since May 2004, and that appellant had not paid child support in compliance with

the existing child-support order. There was also testimony from Gwendolyn Green, a family service worker who was assigned to this case from April 2003 until February 2004, that appellant had six different addresses from October 2002 through April 2004. Ms. Green also testified that appellant did not maintain steady employment and that appellant had been incarcerated on more than one occasion. Ms. Green said that while appellant did not keep a house, a car, or a job, appellant did exercise her visitation with the children when she was able.

Another ground for termination of parental rights can be found at Ark. Code Ann. § 9-27-341(b)(3)(B)(ii)(a) and (c)(Supp. 2005):

(a) The juvenile has lived outside the home of the parent for a period of twelve (12) months, and the parent has willfully failed to provide significant material support in accordance with the parent's means or to maintain meaningful contact with the juvenile.

(c) Material support consists of either financial contributions or food, shelter, clothing, or other necessities when the contribution has been requested by the juvenile's custodian or ordered by a court of competent jurisdiction.

There was testimony at the termination hearing from Wanda Leonard, an investigator with the child support office. Ms. Leonard testified that a child-support order mandating that appellant pay thirty-five dollars per week for the support of her children was entered September 4, 2003. A judgment for \$1,475.65 for unpaid support was entered on October 31, 2004. As a result of that judgment, appellant was ordered to pay an additional one hundred dollars per week toward the arrearage. Ms. Leonard testified that, as of the date of

the termination hearing, appellant was not current in her child support, and that she was in arrears \$3,155.65.

The court also heard testimony from appellant at the termination hearing. Appellant acknowledged that the goals in the case with respect to regaining custody of her children were for her to maintain a stable environment, a stable job, a stable home, and to obtain counseling and transportation. Appellant conceded that she has been unable to maintain stable housing, but she said she has obtained transportation. Although she does not own a vehicle, she testified that she can get a ride from her friend Nellie, and that Nellie is dependable. Appellant testified that currently her driver's license is suspended because she missed a court date on a hot check charge. Appellant testified that she is currently working at Huddle House and that she has been employed there for "going on five months;" however she admitted that prior to this job the longest time she has worked at one place is two months. Appellant also testified that it had been three weeks since she made a child support payment, and she acknowledged that she is in arrears.

We hold that the trial court's decision to terminate appellant's parental rights was not clearly erroneous. The children had been adjudicated dependent neglected and continued out of appellant's custody for forty of the previous forty-three months, and despite meaningful DHS efforts, appellant failed to remedy the conditions causing removal. Appellant failed to maintain stable and suitable housing for the return of her children, failed to maintain steady employment, and she failed to provide significant material support. Because none of the trial court's findings in support of its decision to terminate appellant's parental rights were clearly

erroneous, we affirm its decision.

Affirmed.

GLOVER and VAUGHT, JJ., agree.